

ORDINANCE NO. 2016 - 10

AN ORDINANCE AMENDING THE CITY CODE TO UPDATE PRIVATE WATER WELL TESTING LANGUAGE AND TO UPDATE REGULATIONS FOR TANNING FACILITIES; THEREBY AMENDING CHAPTERS 11 AND 14 OF THE CITY CODE.

The City Council of the City of Bloomington hereby ordains:

Section 1. That Chapter 11, of the City Code is hereby amended by deleting those words contained in brackets [] with strikethrough font and adding those words that are underlined, to read as follows:

Part II. THE CODE

* * *

CHAPTER 11

WATER, WASTEWATER, STORM WATER AND RECYCLING

ARTICLE I. WATER

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SEC. 11.03. TIME FOR CONNECTION.

All properties consuming water for domestic purposes shall either connect to the municipal water system within two years after such service becomes available or annually submit a [certified]water test result made by a state-certified testing laboratory~~[-approved by the Health Officer]~~. This test result shall show that the water is potable according to the standards of the Minnesota Department of Health and that there is no evidence of recirculated sewage. Maximum chemical and bacteriological criteria shall be as follows:

- (1) **Nitrates.** There shall be less than 1.0 mg/liter of nitrate nitrogen.
- (2) **Surfactants.** There shall be no evidence of surfactant content utilizing a test procedure designed to show the presence of surfactants in concentration of 0.05 mg/liter or greater.
- (3) **Coliform.** There shall be no coliform present.

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Section 2. That Chapter 14, of the City Code is hereby amended by deleting those words contained in brackets [] with strikethrough font and adding those words that are underlined, to read as follows:

CHAPTER 14

LICENSES AND PERMITS

ARTICLE I. GENERAL PROVISIONS

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Division S. Tanning Facilities

SEC. 14.369. PURPOSE.

The City Council finds that tanning facilities present potential health problems to persons using such facilities, and therefore the City Council enacts a licensing and regulatory ordinance governing tanning facilities operating within the City.

For the purpose of prescribing regulations governing tanning facilities, the City of Bloomington hereby adopts Minnesota Statutes, Chapter 325H.01 through 325H.010 as may be amended or recodified from time to time. Where differences occur between provisions of this Division and the referenced standards, the provisions of this Division apply.

SEC. 14.370. DEFINITIONS.

The following words and terms, when used in this Division, [shall] have the following meanings, unless the context clearly indicates otherwise:

Consumer. An individual who is provided access to a tanning facility.

Health Authority. City of Bloomington Environmental Health Division and its designated employees or agents as the Community Development Director may designate.

Individual. A human being.

Issuing Authority. City of Bloomington License Section.

Operator. An individual designated by the tanning facility owner or tanning equipment lessee to operate, or to assist and instruct the consumer in the operation and use of, the tanning facility or tanning equipment; however an operator in an apartment or a condominium need not exercise direct supervision or be physically on the premises at all times.

Person. An individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of these entities.

Remodel. Any change to the current tanning facility requiring either a building or trade permit for the work to proceed. Remodel does not include changes to the front desk area, waiting area, painting, wallpapering, or carpeting, even if a permit is otherwise required. Adding a new tanning bed or stall, plumbing changes, or expanding into an adjacent space to add beds or stalls are examples of remodeling. Remodeling also means any changes to a tanning facility plan previously submitted to the City.

Tanning Equipment. Ultraviolet or other lamps and equipment containing these lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

Tanning Facility. A location, place, area, structure, or business or a part thereof which provides consumers access to tanning equipment. Tanning facility includes, but is not limited to, tanning salons, health clubs, apartments, or condominiums regardless of whether a fee is charged for access to the tanning equipment.

Ultraviolet Radiation. Electromagnetic radiation with wavelengths in air between 200 nanometers and 400 nanometers.

~~**Operator** means any person designated by the licensee to assist and instruct consumers in the correct operation of the tanning equipment.~~

~~**Remodel** any change to the current tanning facility requiring either a building or trades permit for the work to proceed. Remodel does not include changes to the front desk area, waiting area, painting, wallpapering, or carpeting, even if a permit is otherwise required. Adding a new tanning bed or stall, plumbing changes, or expanding into an adjacent space to add beds or stalls are examples of remodeling. Remodeling also means any changes to a tanning facility plan previously submitted to the City.~~

~~**Tanning Facility** means a room(s) or a booth(s) which house ultraviolet lamps or products containing such lamps intended for the irradiation of any part of the living human body for cosmetic or non-medical related purposes.~~

~~**Tanning Equipment** means sunlamp products and ultraviolet lamps intended to induce skin tanning through the irradiation of any part of the living human body.~~

~~**Ultra-Violet Radiation** is defined as follows:~~

~~(a) UVA (Ultraviolet A) radiation means radiation in the wavelength between 320—400 nanometers (one-billionth).~~

- ~~(b) UVB (Ultraviolet B) radiation means radiation in the wavelength between 260–320 nanometers (one-billionth).~~
~~(c) UVC (Ultraviolet C) radiation means radiation in the wavelength between 180–260 nanometers (one-billionth).]~~

SEC. 14.370.01. REGULATIONS; APPLICABILITY; EXEMPTIONS.

A Tanning Facility must be constructed, operated, maintained and licensed according to this Division; except for the following who are exempt:

- (a) A person who:
- (1) Uses equipment which emits ultraviolet radiation incidental to its normal operation; and
 - (2) does not use the equipment described in clause (1) to deliberately expose parts of the living human body to ultraviolet radiation for the purposes of tanning or other treatment;
- (b) A physician licensed by the Board of Medical Practice who uses, in the practice of medicine, medical diagnostic and therapeutic equipment that emit ultraviolet radiation; and
- (c) An individual who owns tanning equipment exclusively for personal, noncommercial use.

SEC. 14.371. LICENSE REGULATIONS.

- (a) **Application.** Prior to the operation of any tanning facility used by the public for a fee or other compensation, the owner or operator ~~[shall]~~must make application to the City for a license to operate such facility. The application ~~[shall]~~must be on a form prescribed by the City and include the following information:
- (1) Applicant's (owner) name, address and telephone number;
 - (2) Name of the tanning facility, address and telephone number; and
 - (3) ~~[Type and year of manufacture of equipment proposed to be used for such tanning services; and]~~
 - ~~[(4)]~~ Primary function of the business in which the tanning facility is located.
- (b) **Fees.** A license fee ~~[shall]~~must be submitted with the application to the Issuing Authority ~~[of the City and shall be]~~in the amount set forth in Section 14.03 of the Bloomington City Code.
- (c) **Separate Facilities.** If the owner or operator owns or operates more than one (1) such tanning facility, the owner or operator ~~[shall]~~must file a separate application and submit a license fee for each facility owned or operated.
- (d) **City Inspection.** The ~~[City shall]~~Health Authority will inspect the tanning facility as part of the plan review approval process prior to the issuance of the initial City license to ensure~~[within thirty (30) days of receipt of the license application in order to verify that]~~ the tanning facility will be operated in accordance with the provisions of this Division. Inspections will occur annually thereafter and upon receipt of a complaint to the Health Authority regarding the tanning facility.~~[Facilities operating prior to adoption of this ordinance must apply for a license within thirty (30) days of the effective date of this ordinance.]~~
- (e) **Operation Without License Prohibited.** No person ~~[shall]~~will operate a tanning facility without first having obtained a license from the City. The license issued by the City shall expire one (1) year from the date of approval. The license ~~[shall]~~will be renewed annually on the anniversary date of such approval. The City may refuse to issue or renew the license of any owner or operator who is in violation of the provisions of this Division or other local, state, or federal rules, regulations or laws.
- (f) **Effect of License.** The license is valid only for the location stated on the license.
- (g) **Display of License.** The license ~~[shall]~~must be displayed in a conspicuous place on the premises of the tanning facility.
- (h) **Change of Ownership.** In the event of a change of ownership of the facility, the new owner will be required to apply for a license under this Division.

SEC. 14.372. ~~[PERFORMANCE]~~STANDARDS FOR TANNING EQUIPMENT.

- ~~[(a) No tanning equipment shall be installed in any tanning facility, the use of which is offered to the public for a fee or any other consideration, unless such equipment is in compliance with the standards set forth in 21 Code of Federal Regulations, Part 10.40, Section 10.40.20, as amended, which are incorporated by reference herein.~~
- ~~[(b) Tanning equipment manufactured before May 7, 1980, shall be in compliance with the standards set forth in 44 Federal Register 65357, which are incorporated by reference herein.]~~

- ([e]a) Any new or remodeled tanning facility must submit for approval by the Health Authority ~~[Environmental Health Division]~~ a to-scale facilities plan in sufficient detail to ascertain compliance with conditions in this ordinance and pay the corresponding plan review fee listed in Section 14.03.
- ([d]b) The tanning facility must be constructed in conformance with the approved plans. The Building and Inspection Division will not issue a building permit for a new tanning facility or remodeling or alteration permit for an existing facility until such plans have the approval of the Health Authority ~~[Environmental Health Division]~~. The Health Authority ~~[Environmental Health Division]~~ will inspect the tanning facility as frequently as necessary during the construction to ensure that the construction occurs in conformance with this Division of the City Code. The Health Authority ~~[Environmental Health Division]~~ will conduct a final construction inspection prior to the start of operations and issuance of a license.
- (c) The tanning facility owner or operator must use only tanning equipment manufactured according to Code of Federal Regulations, title 21, part 1040.20. The exact nature of compliance must be based on the standards in effect at the time of manufacture as shown on the device identification label required by Code of Federal Regulations, title 21, part 1010.3.
- (d) Each assembly of tanning equipment must be designated for use by only one consumer at a time and must be equipped with a timer that complies with Code of Federal Regulations, title 21, part 1040.20(c)(2). The maximum timer interval may not exceed the manufacturer's maximum recommended exposure time. No timer interval may have an error exceeding plus or minus ten percent of the maximum timer interval for the product.
- (e) Tanning equipment must meet the National Fire Protection Association National Electrical Code.
- (f) Tanning equipment must include physical barriers to protect consumers from injury induced by touching or breaking the lamps.
- (g) The tanning facility owner or operator must replace defective or damaged lamps, bulbs, or filters with a type intended for use in the affected tanning equipment as specified on the product label and having the same spectral distribution.
- (h) The tanning facility owner or operator must replace ultraviolet lamps and bulbs, which are not otherwise defective or damaged, at a frequency or after a duration of use as may be recommended by the manufacturer of the lamps and bulbs.
- (i) The tanning facility owner or operator must maintain a record of when the bulbs or lamps in each tanning booth or bed were replaced according to paragraphs (e) and (f).
- (j) Tanning equipment must have a control that enables the user to manually terminate radiation without pulling the electrical plug or coming in contact with the ultraviolet lamp.
- (k) The tanning facility operator must instruct each user on:
 - (1) The proper position to maintain relative to the tanning lamps;
 - (2) The position of the safety railing, where applicable;
 - (3) The manual switching device to terminate radiation; and
 - (4) Maximum time of exposure.
- (l) The tanning facility operator must inspect the facility to ensure that the floors are dry before each individual's use.
- (m) The tanning facility operator must monitor the use of the facility to ensure that the interior temperature does not exceed 100 degrees Fahrenheit.
- (n) The tanning facility operator must comply with sanitizing procedures specified by the manufacturer of the tanning equipment between users.
- (o) Tanning booths designed for stand-up use must comply with the following additional requirements:
 - (1) Booths must have physical barriers or other means, such as handrails or floor markings, to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin;

- (2) Booths must be constructed with sufficient strength and rigidity to withstand the stress of use and the impact of a falling individual;
- (3) Access to booths must be of rigid construction; and
- (4) Booths must be equipped with handrails and nonslip floors.

SEC. 14.373. OPERATING REQUIREMENTS.

- (a) Each tanning facility ~~[shall]~~ must have on hand at all times an operator adequately trained in the correct operation of the equipment so as to be able to inform and assist the public in its proper use.
- (b) The tanning facility owner or operator must prohibit a person under age 18 from using any type of tanning equipment as defined by section 14.370 available in the tanning facility.
- (c) The tanning facility owner or operator must conspicuously post the warning signs described in paragraphs (1) and (2) within three feet of each tanning station. The sign must be clearly visible, not obstructed by any barrier, equipment, or other object, and must be posted so that it can be easily viewed by the consumer before energizing the tanning equipment.
 - (1) The warning sign required in paragraph (c) must have dimensions not less than eight inches by ten inches, and must have the following wording:

"DANGER - ULTRAVIOLET RADIATION

-Follow instructions.

-Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.

-Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT

IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

-Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe yourself to be especially sensitive to sunlight."
 - (2) All tanning facilities must prominently display a sign in a conspicuous place, at the point of sale, that states it is unlawful for a tanning facility or operator to allow a person under age 18 to use any tanning equipment.
- (d) Each operator ~~[shall]~~ will perform the following functions as a precondition to access by the public to the tanning facility:
 - (1) The operator ~~[shall]~~ must review verbally the warning information in Section 14.373 (c) (1) with~~[require]~~ each person desiring to use the tanning equipment~~[facility to fill out a form specifying any and all prescription medicines and over the counter medications that they are presently taking]. [The form shall be kept as a permanent record of the person's attendance and progress.]~~
 - (2) The operator must maintain a record of each consumer's total number of tanning visits at the facility, and the dates and durations of tanning exposures for a period of three years after exposure.
 - (~~[2]~~3) The operator ~~[shall]~~ must provide protective goggles and require each person ~~[desiring to use the tanning facility to use the manufacturer's specified protective eye wear]~~ wear goggles while using tanning equipment. The protective goggles must meet the requirements of Code of Federal Regulations, title 21, part 1040.20(c)(4). The tanning facility owner or operator must ensure that the protective goggles required by this section are properly sanitized before each use unless the goggles are owned by the consumer, and must not rely upon exposure to the ultraviolet radiation produced by the tanning equipment itself to provide the sanitizing.

~~The operator shall instruct the user as to the proper position to maintain in relation to the tanning lamps within the facility; positioning of the safety railing; the manual switching device to terminate the radiation in case of emergency; and a recommended time of exposure.~~
 - (~~[4]~~) The operator shall monitor the use of the equipment to ensure that the interior temperature does not exceed 100 degrees Fahrenheit.
 - (~~[5]~~) The operator shall inspect the facility to ensure that the floors are dry. The floors shall be made dry prior to each person's use.

- ([6]) ~~The operator shall post signs and supply handouts warning consumers of the potential effects of radiation on persons taking medication, the possible relationship of radiation to skin cancer, and potential for eye damage.~~
- ([7]) ~~The operator shall be responsible for meeting and complying with sanitizing procedures for all sunlamp equipment after each consumer use.~~
- ([8]4) Convenient toilet facilities and dressing rooms ~~[shall]~~ must be provided with all tanning facilities. Toilet facilities ~~[shall]~~ must include a water closet and handwashing sink[s]. Toilet facilities and dressing rooms ~~[shall]~~ must be clean and in working order at all times.
- ([9]) ~~The tanning facility shall be maintained in a clean and sanitary manner and each tanning facility shall be cleaned and sanitized after each consumer use with a sanitizer of a type and strength approved by City health authorities.~~

SEC. 14.374. PENALTY.

Unless otherwise specifically noted herein, [A]a violation of any provision of this Division ~~[shall be]~~is a misdemeanor under Minnesota law. In addition, the provisions of this Division are subject to enforcement by administrative citations and subject to civil fines pursuant to the Civil Hearing Process set forth in Chapter 1, Article II of this code, as well as by civil district court action.

SEC. 14.375. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Division is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Division. The City Council hereby declares that it would have adopted the Division and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

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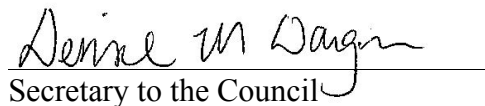
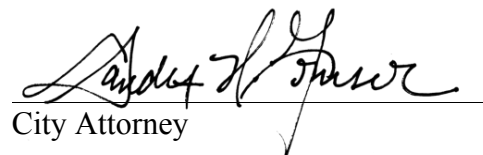
Passed and adopted this 16th day of May, 2016.



Mayor

ATTEST:

APPROVED:


Secretary to the Council
City Attorney